

# **TAIWAN 2021 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

Taiwan is a democracy led by a president and parliament selected in multiparty elections. In 2020 voters re-elected President Tsai Ing-wen of the Democratic Progressive Party to a second four-year term in an election considered free and fair.

Civilian authorities maintained effective control over the security forces. The National Police Agency, under the Ministry of Interior, maintains internal security. Police, military services, Agency of Corrections, and Coast Guard Administration report to the premier, who is appointed by the president. There were no reports that members of the security forces committed abuses.

Significant human rights issues included the existence of criminal libel laws.

Authorities enforced laws prohibiting human rights abuses and criminalizing official corruption and prosecuted officials who committed them. There were no reports of impunity.

## **Section 1. Respect for the Integrity of the Person**

### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that authorities or their agents committed arbitrary or unlawful killings.

### **b. Disappearance**

There were no reports of disappearances by or on behalf of Taiwan authorities.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or**

## **Punishment**

The law stipulates no violence, threat, inducement, fraud, or other improper means should be used against accused persons, and there were no reports officials employed these practices. There were no reports of impunity in the security forces.

## **Prison and Detention Center Conditions**

There were no significant reports of prison or detention center conditions that raised human rights concerns.

**Physical Conditions:** There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse.

**Administration:** Prison authorities investigated claims of harsh conditions of imprisonment and released the results of their investigations to judicial authorities and occasionally to the press. Authorities investigated and monitored prison and detention center conditions.

In August the Control Yuan issued an investigation report ordering Chiayi Prison to take corrective measures to ensure due process and basic rights for inmates suspected of violating prison rules. Between 2019 and 2020, Chiayi Prison subjected 22 inmates to administrative segregation from the general prison population for periods of 20 to 102 days while investigating their behavior, a disproportionate percentage of all such cases across the national prison system during those two years. The law limits to a maximum of 20 days the use of administrative segregation while investigating inmate violations of prison rules.

**Independent Monitoring:** Authorities allowed independent nongovernmental observers to investigate prison conditions.

## **d. Arbitrary Arrest or Detention**

The constitution and relevant laws prohibit arbitrary arrest and detention and provide for the right of defendants to challenge the lawfulness of their detention in court, and authorities generally observed these requirements.

## **Arrest Procedures and Treatment of Detainees**

The law requires a warrant or summons, except when there is sufficient reason to believe the suspect may flee or in urgent circumstances, as specified in the code of criminal procedures. Courts may release indicted persons on bail. Prosecutors must apply to the courts within 24 hours after arrest for permission to continue detaining a suspect. Authorities generally observed these procedures. Prosecutors may apply to a court for approval of pretrial detention of an unindicted suspect for a maximum of two months, with one possible two-month extension. Prosecutors may request pretrial detention in cases in which the potential sentence is five years or more and when there is a reasonable concern the suspect could flee, collude with other suspects or witnesses, or tamper with or destroy material evidence.

The law allows defendants and their lawyers access to case files and evidence while in pretrial detention. The law also stipulates defendants must be assisted by a lawyer while in detention. For those who cannot afford to hire one, a public defender will be appointed. The law also specifies suspects may not be interrogated late at night.

Authorities may detain a suspect without visitation rights, except for legal counsel, or hold a suspect under house arrest based on a prosecutor's recommendation and court decision. During the active investigation phase of their cases, authorities, per the above regulations, denied visitation rights to a small number of detainees.

The judicial branch (Judicial Yuan) and the National Police Agency operated a program to provide legal counsel during initial police questioning of indigenous suspects, qualifying indigent suspects who have a mental disability, or persons charged with a crime punishable by three or more years in prison. Detained persons who might not otherwise have legal representation may request the assistance of the Legal Aid Foundation, a private, nonprofit foundation that receives public funds to provide professional legal assistance through its 22 branch offices to persons. Police are obligated to notify suspects of the availability of the Legal Aid Foundation's assistance. The law affords the right of compensation to those whom police have unlawfully detained.

## **e. Denial of Fair Public Trial**

The constitution provides for an independent judiciary, and authorities generally respected judicial independence and impartiality. Some political commentators and academics, however, publicly questioned the impartiality of judges and prosecutors involved in high profile, politically sensitive cases.

### **Trial Procedures**

The constitution provides for the right to a fair and public trial, and an independent judiciary generally enforced this right.

By law when any authority arrests or detains a person without a court order, any person, including the arrestee or detainee, may petition a court of justice having jurisdiction for a writ of habeas corpus, and the case must be brought before a judge within 24 hours. The law also requires agencies to inform detainees of their right to see a judge for a writ of habeas corpus. Detaining authorities who violate the law may face a maximum sentence of three years in prison and a modest fine.

Trials usually took place within three months of indictment. All defendants are presumed innocent until proven guilty. They also have the right to an attorney and to be present at their trials. Trials are public, although court permission may be required to attend trials involving juveniles or potentially sensitive issues that might attract crowds. Judges decide cases; all judges receive appointments from and answer to the Judicial Yuan, which is led by the 15 members of the Constitutional Court who are nominated by the president and confirmed by the Legislative Yuan. Criminal misconduct can also be investigated and prosecuted by law enforcement authorities reporting to the Executive Yuan and noncriminal misconduct can be investigated and subject to impeachment or censure by the Control Yuan. A single judge, rather than a defense attorney or prosecutor, typically interrogates prosecutors, defendants, and witnesses.

Defendants have the right to be informed promptly of charges, hire an attorney of their choice or have one provided, prepare a defense, confront witnesses against them, and present witnesses and evidence. Defendants have the right to free interpretation service, if needed, from the moment charged through all appeals.

By law a suspect may not be compelled to testify or confess guilt and a confession may not be the sole evidence used to find a defendant guilty. All convicted persons have the right to appeal to the next two higher court levels. The law extends the above rights to all suspects and convicted persons.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters. Administrative remedies are available in addition to judicial remedies for alleged wrongdoing, including human rights violations. Members of the general public may petition the National Human Rights Commission to investigate incidents of alleged human rights violations and the commission may propose corrective measures for implementation by official agencies.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The constitution prohibits such actions, and there were no reports authorities failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties**

### **a. Freedom of Expression, Including for Members of the Press and Other Media**

The constitution provides for freedom of expression, including for members of the press, and other media, and Taiwan authorities generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for members of the media.

**Freedom of Expression:** In May the Supreme Court rejected the appeal of Chia-yu Lee, who was convicted of inciting individuals to burn the Republic of China

flag in 2020 after a lower court initially acquitted him on the grounds that his act was a form of constitutionally protected speech.

Authorities have cited the law to combat misinformation such as pandemic-related disinformation. For example in February a man was convicted of spreading rumors alleging a cluster of COVID-19 cases at a karaoke bar and fined 300,000 New Taiwan dollars (\$10,000). In June the Hsinchu County deputy magistrate was investigated for spreading disinformation about Japan's donation of COVID-19 vaccines to Taiwan.

**Censorship or Content Restrictions:** Officials in the People's Republic of China (PRC) reportedly continued to influence Taiwan media outlets through pressure on the business interests of their parent companies in the PRC. Taiwan journalists reported difficulty publishing content critical of the PRC, alleging that PRC authorities had pressured Taiwan businesses with operations in China to refrain from advertising with Taiwan media outlets which published such material.

In December 2020 private media outlet CTi News was forced off the air after the National Communications Commission declined to renew its broadcast license. Opposition politicians and some academics and commentators claimed the decision was politically motivated retaliation for CTi News' criticism of the ruling party; CTi News continued its reporting in an online-only format.

**Libel/Slander Laws:** Defamation and public humiliation are criminal offenses. Reporters faced online bullying and the threat of legal action, particularly under the liberal libel laws.

Under the law those who commit slander or libel by "pointing out or disseminating a fact which will injure the reputation of another" are subject to a sentence of up to two years or a fine. Victims of slander can also claim reasonable financial compensation and require measures for the rehabilitation of their reputations. These provisions allow the subjects of unfavorable press coverage to press criminal and civil charges directly against journalists and media outlets for defamation. Journalists were rarely convicted for criminal defamation, as the law also specifies that a person who makes "fair comment on a fact subject to public criticism" with "bona-fide intent...shall not be punished." Some legal scholars and

nongovernmental organizations (NGO) continued to urge that libel be treated exclusively as a civil matter.

On March 11, the Taipei District Prosecutor's Office announced that it had dropped its criminal defamation investigation against *Financial Times* journalist Kathrin Hille after the Want Want Group withdrew its complaints against her. Want Want subsidiary CTi News said the complaints, which were made in 2019 in apparent retaliation for a report Hille authored exposing alleged coordination between Want Want media outlets in Taiwan and the PRC Taiwan Affairs Office, had been withdrawn out of "respect for freedom of the press."

On August 17, prosecutors closed an investigation of a criminal libel complaint against the secretary general of the Yilan Migrant Fishermen's Union for publicly alleging the chairman had pressured the union's president to resign and abused the union president's brother, whom he employed. The complaint was brought in 2019 by the chairman of the Su'ao Fishermen's Association. The case was dropped due to a lack of evidence that the suspect intended to defame the complainant.

## **Internet Freedom**

Authorities did not restrict or disrupt access to the internet or censor online content, and there were no credible reports they monitored private online communications without appropriate legal authority.

## **Academic Freedom and Cultural Events**

There were no official restrictions on academic freedom or cultural events.

## **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and Taiwan authorities generally respected these rights.

## **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

#### **d. Freedom of Movement**

The constitution provides for freedoms of internal movement, foreign travel, emigration, and repatriation, and authorities generally respected these rights.

In response to the COVID-19 pandemic, authorities imposed border control restrictions on inbound travelers, including on some foreign national family members of Taiwan nationals and on some foreign nationals holding Taiwan residency visas, although these restrictions continued to evolve in accordance with course of the pandemic.

#### **e. Status and Treatment of Internally Displaced Persons**

Not Applicable.

#### **f. Protection of Refugees**

Due to its unique political status, Taiwan authorities were not able to cooperate with the Office of the UN High Commissioner for Refugees or other major international humanitarian organizations in providing protection and assistance to refugees, returning refugees, or asylum seekers, or other persons of concern.

**Access to Asylum:** The law does not provide for granting asylum or refugee status, and authorities have not established a system for providing protection to refugees. Due to its unique political status, Taiwan is not eligible to become a party to the 1951 Convention Relating to the Status of Refugees. Taiwan authorities handle asylum seekers on a case-by-case basis, taking international practice and the protection of human rights into consideration.

All PRC nationals unlawfully present are required by law to be returned to the PRC, although Taiwan allows PRC asylum seekers to remain in Taiwan on a case-by-case basis.

**Temporary Protection:** On September 13, press reported that the Taiwan authorities had assisted at least 100 Hong Kong nationals in Taiwan over the preceding 14 months under legal provisions for “Hong Kong or Macau Residents whose safety and liberty are immediately threatened for political reasons.” Taiwan



allocated 41 million New Taiwan dollars (\$1.37 million) to provide humanitarian and resettlement assistance for Hong Kong nationals in Taiwan during the year, including subsidies for counseling, education, employment, and living expenses.

### **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their elected officials in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

**Recent Elections:** In 2020 presidential and legislative elections, President Tsai Ing-wen won re-election, and her party, the Democratic Progressive Party, maintained a majority in the legislature. Observers regarded the elections as free and fair, although there were allegations of vote buying by candidates and supporters of both major political parties.

**Participation of Women and Members of Minority Groups:** No laws limit the participation of women or members of minority groups in the political process, and they did participate.

President Tsai Ing-wen is Taiwan's first female president. Since the 2020 elections, a record 42 percent of national legislators were women, an increase from 38 percent in 2016. Six seats are reserved in the legislature for representatives chosen by Taiwan's indigenous people.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and authorities generally implemented the law effectively. There were reports of official corruption during the year. In the year to May, 13 high-ranking officials, 79 mid-level, 93 low-level, and 18 elected officials were indicted for corruption.

**Corruption:** The Ministry of Justice and its Agency against Corruption oversee combating official corruption. The ministry received sufficient resources and

collaborated with civil society within the scope of the law. Some legal scholars and politicians said the Ministry of Justice was insufficiently independent and conducted politically motivated investigations of politicians. The Control Yuan, an independent investigative and auditing agency, is responsible for impeaching officials in cases of wrongdoing.

On January 18 and April 7, the Ministry of Justice and the Judicial Yuan referred six officials to the Control Yuan for criminal investigation, including former minister of justice Tseng Yung-fu, former prosecutor general Wu Ying-chao, and two others for investigation of noncriminal misconduct, including Supreme Administrative Court judge Cheng Hsiao-kang and Prosecutor General Lo Jung-chien. On January 19, the Judicial Yuan referred six former judges to the Control Yuan for investigation of noncriminal misconduct. On September 14, the Control Yuan impeached Cheng; the other criminal and noncriminal misconduct investigations were ongoing as of October. These actions followed the Control Yuan's August 2020 impeachment of former Supreme Court judge Shih Mu-chin, who retired as head of an administrative tribunal charged with sanctioning official misconduct, for failing to recuse himself from cases involving a businessperson with whom he maintained a social relationship and inappropriate contact during litigation; the Ministry of Justice investigated 77 other incumbent and former judicial and law enforcement officials implicated in similar behavior with the same businessperson.

In July a senior investigator of the Ministry of Justice's Investigation Bureau was indicted for corruption for allegedly profiting from the sale of narcotics worth more than 168 million New Taiwan dollars (\$5.6 million) seized in law enforcement investigations over eight years.

On September 17, the mayor and the council speaker of Pingtung City were convicted of corruption and sentenced to seven and four years in prison, respectively, for colluding with a private contractor to misappropriate 2.4 million New Taiwan dollars (\$80,000) in public funds over three years.

## **Section 5. Governmental Posture Towards International and Nongovernmental Investigation of Alleged Abuses of Human**

## **Rights**

A variety of domestic and international human rights groups generally operated without restriction, investigating and publishing their findings on human rights cases. Authorities were generally cooperative and responsive to their views.

## **Section 6. Discrimination and Societal Abuses**

### **Women**

**Rape and Domestic Violence:** The law criminalizes rape of women and men, including spousal rape, and domestic violence, and provides protection for rape survivors. Rape trials are not open to the public unless the victim consents. The law allows experts to assist in questioning and appear in court as witnesses when rape victims are minors or have mental disabilities, and it authorizes the use of one-way mirrors, video conferencing, or other practices to protect victims during questioning and at trial. The law permits a charge of rape even if the victim chooses not to press charges and allows prosecutors to investigate complaints of domestic violence even if the victim has not filed a formal complaint.

The law establishes the punishment for rape as a minimum of five years' imprisonment, and courts usually sentenced individuals convicted of rape to five to 10 years in prison. Courts typically sentenced individuals convicted in domestic violence cases to less than six months in prison.

Many victims did not report the crime for fear of social stigmatization, and NGOs and academic studies estimated the total number of sexual assaults was seven to 10 times higher than the number reported to police. Some abused women chose not to report incidents to police due to social pressure not to disgrace their families.

The law requires all cities and counties to establish violence prevention and control centers to address domestic and sexual violence, child abuse, and elder abuse.

**Sexual Harassment:** The law prohibits sexual harassment (see section 7.d.). In most cases perpetrators were required to attend classes on gender equality and counseling sessions, and when the victims agreed, to apologize to the victims. In 2020 a total of 322 fines were issued, down from 408 fines in 2019.

Reports of workplace sexual harassment increased in recent years. According to the Modern Women's Foundation, workplace sexual harassment accounted for 54 percent of all sexual harassment cases in 2020, a substantial increase from the 17 percent accounted for by workplace sexual harassment in 2017, which the foundation attributed to an increased willingness to report by victims.

**Reproductive Rights:** There were no reports of coerced abortion or involuntary sterilization on the part of official authorities. The law required women concerned about the effect of pregnancy or childbirth on their mental health or family life to secure spousal consent before receiving induced abortion or tubal ligation health services. Fertility treatments are limited by law to married opposite-sex couples with a medical diagnosis of infertility or a major hereditary disease, and when the wife is medically capable of carrying the pregnancy to term.

Authorities provided access to sexual and reproductive-health services including emergency contraception for survivors of sexual violence. Staff members at designated hospitals are trained to collect evidence and perform necessary medical examinations.

**Discrimination:** The law provides the same legal status and rights for women and men. Women experienced some discrimination in employment (see section 7.d.).

**Gender-biased Sex Selection:** The law prohibits sex selection and sex-selective abortion, except for diagnoses of sex-linked heritable disorders. Even for embryos created via assisted reproductive technology, the fetal sex may not be revealed in any form unless medically required. According to National Health Administration statistics, the ratio of boys-to-girls for a first child born in 2020 was 1.069. Authorities worked with local health bureaus to monitor the sex ratio at birth and continued to promote gender equality.

## **Systemic Racial or Ethnic Violence and Discrimination**

Article 7 of the constitution protects members of racial or ethnic minorities from violence and discrimination, and authorities enforced this effectively.

Spouses born in Southeast Asian countries and the PRC accounted for more than 2.3 percent of the overall population.

The law allows non-PRC-born foreign spouses of Taiwan passport holders to apply for Taiwan residency after three years, while PRC-born spouses must wait six years. Unlike non-PRC spouses, however, PRC-born spouses may work in Taiwan immediately on arrival.

## **Indigenous Peoples**

Authorities officially recognize 16 indigenous tribes, accounting for approximately 2.3 percent of the population. The law provides indigenous people equal civil and political rights and stipulates authorities should provide resources to help indigenous groups develop a system of self-governance, formulate policies to protect their basic rights, and promote the preservation and development of their languages and cultures.

Although the law allows for the delineation of traditional indigenous territories owned by authorities, some indigenous rights advocates argued a large amount of indigenous land was seized and privatized decades ago, depriving indigenous communities of the right to participate in the development of these traditional territories.

Existing law stipulates that authorities and the private sector should consult with indigenous people and obtain their consent to or participation in, as well as share with them the benefits of, land development, resource utilization, ecology conservation, and academic research in indigenous areas. There are, however, no regulations in place for obtaining this consent with respect to private land.

Indigenous people participated in decisions affecting their land through the political process. The law sets aside six of the 113 seats in the legislature for indigenous tribal representatives elected by indigenous voters.

On April 23, the Forestry Bureau publicly apologized to an Atayal tribe whose traditional territory was occupied in 1963 to build a logging road and a monument to workers killed during the road's construction. President Tsai and the Forestry Bureau participated in a traditional reconciliation ceremony with representatives of the tribe. Indigenous groups had launched a public protest since 2016 appealing for recognition of tribal sovereignty over the land and demolition of the monument.

On May 7, a Constitutional Court ruling eased permitting requirements for traditional hunting by indigenous peoples.

On September 16, the Supreme Administrative Court upheld a 2019 ruling invalidating the 2018 renewal of Asia Cement Corporation's mining permit based on the lack of consultation with or consent by the local indigenous Truku tribe as required by the law. Indigenous, human rights, and environmental groups appealed for an immediate suspension of the mining operations and strengthened protections for the traditional rights of indigenous peoples. The Ministry of Economic Affairs, however, insisted the mine continue to operate while the company's permit application remained "pending."

## **Children**

**Birth Registration:** Citizenship is derived from that of either parent. Births must be registered within 60 days; failure to do so results in the denial of national health care and education benefits. Registration is not denied on a discriminatory basis.

**Child Abuse:** The law stipulates persons learning of child abuse or neglect must notify police or welfare authorities. An official 24-hour hotline accepted complaints and offered counseling. Courts are required to appoint guardians for children of parents deemed unfit. Childcare center owners and teachers who physically abuse or sexually harass children may be fined, and the names of perpetrators and their institutions will be made public. Owners who fail to verify the qualifications of teachers and other employees may be fined.

Children's rights advocates called on medical professionals to pay attention to infants and young children sent to hospitals with unusual injuries and to take the initiative to report suspected abuse to law enforcement while treating these children. Advocates also called attention to bullying, violence, and sexual assault cases at correctional institutions, while pointing out these facilities were often understaffed and that their personnel were inadequately trained to counsel and manage teenage inmates.

Central and local authorities coordinated with private organizations to identify and assist high-risk children and families and to increase public awareness of child abuse and domestic violence.

According to official statistics, the number of reported cases of child abuse increased from 73,973 to 83,108 from 2019 to 2020.

**Child, Early, and Forced Marriage:** The legal minimum age of marriage is 18 years for men and 16 for girls.

**Sexual Exploitation of Children:** The law prohibits the commercial sexual exploitation of children and child pornography. Under the law a perpetrator who films an underage person engaging in sexual intercourse or obscene acts or produces pictures, photographs, films, videotapes, compact discs, electronic signals, or other objects that show an underage person engaging in sexual intercourse or obscene acts is subject to imprisonment for between one and seven years and could face a substantial fine.

The minimum age for consensual sexual relations is 16. Persons who engage in sex with children younger than age 14 face sentences of three to 10 years in prison. Those who engage in sex with minors between 14 and 16 receive a prison sentence of three to seven years. Solicitors of sex with minors older than 16 but younger than 18 face a maximum of one year in prison or hard labor or a substantial fine.

While authorities generally enforced the law domestically, elements of the law that treat possession of child pornography as a misdemeanor rather than a felony hampered enforcement in some cases. Authorities reported concluding one investigation of child sexual exploitation committed by citizens while traveling abroad without charges in August 2020.

The Control Yuan reported in August that its analysis of official statistics from 2005-20 showed the number of male victims of child sexual exploitation was increasing and that male and female minors of indigenous heritage were targeted at higher rates than those of other ethnic groups.

The Taiwan High Prosecutor's Office reported a rise in child sexual exploitation cases in 2018, 2019, and 2020, with 1,060, 1,211, and 1,691 indictments, respectively.

NGOs raised concerns about the online sexual exploitation of children and reported sex offenders increasingly used cell phones, web cameras, live streaming, apps,

and other new technologies to deceive and coerce underage girls and boys into sexual activity; the NGOs called for increased prosecutions and heavier penalties.

There were reports of minors in prostitution.

**International Child Abductions:** Due to its unique political status, Taiwan is not eligible to become a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at

<https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

## **Anti-Semitism**

The Jewish community was very small, estimated at 1,000 individuals, predominately foreign residents. There were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report>.

## **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities and stipulates authorities must provide certain services and programs to persons with disabilities. Persons with disabilities have the right to vote and participate in civic affairs.

Authorities made efforts to implement laws and programs to provide access to buildings, information, and communications. Official websites and digital information platforms conform to accessibility guidelines and all public facilities were required to install facilities or equipment that enable barrier-free access for persons with disabilities to public services and official information. NGOs contended the lack of barrier-free spaces and accessible transportation systems continued to limit civic engagement by persons with disabilities, particularly outside Taipei. The Accessible Living Environment Supervisory Task Force under



the Ministry of the Interior is responsible for monitoring efforts by local governments to improve the accessibility of public buildings. Authorities release an annual assessment on accessibility in public buildings and areas that serves as a reference for budgeting.

Most children with disabilities attended mainstream schools, but separate primary, secondary, and vocational schools were also available for students with disabilities. NGOs asserted services for students with disabilities remained largely inadequate.

On August 27, the Ministry of Health and Welfare ordered the De Fang House of Correction, a Miaoli-based privately operated residential institution for adults with physical or mental disabilities, to suspend operations and relocate 11 residents after two staffers were accused of beating a 28-year-old autistic resident to death on July 29. The private foundation operating the institution was fined 300,000 New Taiwan dollars (\$10,000); the resident's death remained under criminal investigation by prosecutors as of October.

## **HIV and AIDS Social Stigma**

The law prohibits employers from requesting health examination reports from job candidates to prove they do not have HIV or other communicable diseases. There was reported discrimination, including employment discrimination, against persons with HIV or AIDS (see section 7.d.).

## **Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity**

The law stipulates employers cannot discriminate against job seekers or workers based on gender or sexual orientation and prohibits schools from discriminating against students based on their gender, gender traits, gender identity, or sexual orientation.

Reported instances of violence against lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) individuals were extremely rare, and police response was adequate.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of most workers to form and join independent unions, conduct strikes, and bargain collectively. The law prohibits discrimination, dismissal, or other unfair treatment of workers for union-related activities and requires reinstatement of workers fired for legal trade union activity. Employees hired through dispatching agencies (i.e., temporary workers) do not have the right to organize and bargain collectively in the enterprises where they work.

Authorities effectively enforced the law. Penalties are commensurate with those for similar laws.

The Labor Incident Act, which entered into force in 2020, establishes special labor courts to handle all labor cases, including collective disputes involving a union. As of January, the average length of legal proceedings for labor incidents had been reduced to 84 days, eight days shorter than prior to passage of the act.

According to the law, there are three types of unions: enterprise unions, industrial unions, and professional unions. Enterprise unions must have 30 members to form and there may only be one union per enterprise. Enterprise unions are responsible for negotiating the working conditions and entitlements of enterprise-level collective agreements. More than 80 percent of workers were employed in companies with fewer than 30 workers where they may only join a professional or industrial union. Industrial and professional unions do not have the right to collectively bargain enterprise level working conditions but may advocate for sector-wide benefits.

The right to strike remained highly restricted. Teachers, civil servants, and defense industry employees do not have the right to strike. Workers in industries such as utilities, hospital services, and telecommunication-service providers are allowed to strike only if they maintain basic services during the strike. Authorities may prohibit, limit, or break up a strike during a disaster. Workers are allowed to strike only in “adjustment” disputes such as compensation and working schedules. The law forbids strikes related to rights guaranteed under the law, which in principle should be resolved through the judicial system.

The law requires mediation of labor disputes when authorities deem them sufficiently serious or involving unfair practices. Mediation usually resolved most cases within 20 days. Legally binding arbitration generally took between 45 and 79 working days. The law prohibits strikes or other acts of protest during conciliation or arbitration proceedings. Labor organizations stated this prohibition impeded workers' ability to exercise their right to strike.

The Ministry of Labor oversees implementation and enforcement of labor laws in coordination with local labor affairs authorities. Authorities effectively enforced laws providing for freedom of association and collective bargaining. Ministry arbitration committees reviewed cases of antiunion activities, and authorities subjected violators to fines or restoration of employee's duties. Such fines were not commensurate with those for other laws involving denials of civil rights.

Large enterprises frequently made it difficult for employees to organize an enterprise union through methods such as blacklisting union organizers from promotion or relocating them to other work divisions. These methods were particularly common in the technology sector. For example there was only one enterprise union among the 520 companies in Hsinchu Science Park, where more than 150,000 employees worked.

Between May and August, the Miramar Golf and Country Club Enterprise Union conducted the longest strike in Taiwan's history to protest the termination and mandatory transfer of 44 workers to other employers. The Miramar conglomerate restructured its operations at the golf course in Linkou, Taoyuan, on May 8 under the Business Mergers and Acquisitions Act. The union alleged that the company split the existing employees between three smaller subsidiaries and a fourth outside company employing less than 30 workers to effectively eliminate the union. After 12 rounds of negotiation, including Ministry of Labor and municipal authorities, the conglomerate agreed to revoke the restructuring and return all workers to their previous employment status.

Authorities provided financial incentives through cash awards of up to 498,000 New Taiwan dollars (\$16,600) to enterprise unions to encourage negotiation of "collective agreements" with employers.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The law prescribes penalties for forced labor, and authorities effectively enforced the law, but courts delivered light sentences or fines in most forced labor convictions. Such penalties were not commensurate with those for analogous serious crimes, such as kidnapping. Authorities can terminate brokers' business operations but there is no legal prohibition against reopening a business through a proxy that registers as a new company.

Authorities continued public-awareness campaigns, including disseminating worker-education pamphlets, operating foreign-worker hotlines, and offering Ministry of Education programs on labor trafficking as part of the broader human rights curriculum. Forced labor occurred primarily in sectors reliant on migrant workers, including domestic service, fishing, farming, manufacturing, meat processing, and construction. Some labor brokers charged foreign workers exorbitant recruitment fees and used debts incurred from these fees in the source country as tools of coercion to subject the workers to debt bondage (see section 7.e.).

Migrant fishermen reported abuses by senior crewmembers, including beatings, withholding of food and water, retention of identity documents, wage deductions, and noncontractual compulsory sharing of vessel operational costs to retain their labor. These abuses were particularly prevalent in Taiwan's large distant-waters fishing fleet, which operated without adequate oversight (see section 7.e.).

Greenpeace issued reports during the year and in 2019 alleging indicators of forced labor in the operations of two Taiwan-owned, foreign-flagged fishing vessels, *Chin Chun No.12* and *Da Wang*, including physical violence, excessive overtime, and withholding of wages. The Control Yuan in May issued an investigation report ordering the National Immigration Agency, Ocean Affairs Council, and Fisheries Agency to take corrective measures.

The law requires labor brokers to report mistreatment such as withholding identification documents, restrictions on access to dorms or residences, and excessive work hours violating the general work conditions of foreign workers to law enforcement authorities within 24 hours. Penalties for not doing so include

small fines. The law prohibits brokers from specific acts against migrant workers, including sexual assault, human trafficking, or forced labor, with penalties including modest fines and possible criminal charges.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The legal minimum age for employment is 15, but an exception allows children younger than 15 to work if they have completed junior high school and appropriate authorities have determined the work will not harm the child's mental and physical health. The law prohibits children younger than 18 from doing heavy or hazardous work. Working hours for children are limited to eight hours per day, and children may not work overtime or on night shifts. The law prohibits all the worst forms of child labor.

County and city labor bureaus effectively enforced minimum age laws by ensuring the implementation of compulsory education. Employers who violate minimum age laws face a prison sentence, fines, or both, which were not commensurate with those of analogous serious crimes, such as kidnapping.

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation based on race, religion, national origin, color, sex, ethnicity, disability, age, and sexual orientation. The law prohibits potential employers from requesting medical reports from job candidates to prove they do not have HIV or other communicable diseases. The law forbids termination of employment because of pregnancy or marriage. The law does not restrict women's working hours, occupations, or tasks. Authorities effectively enforced the law and penalties were commensurate to laws related to civil rights, such as election interference.

Workers who encounter discrimination can file complaints with two independent committees composed of scholars, experts, and officials in city and county departments of labor affairs. Local labor affairs bureaus are empowered to intervene and investigate complaints of employment discrimination. Authorities

enforced decisions made by those committees. Employers can appeal rulings to the Ministry of Labor and administrative courts.

A March survey by the Standard Chartered Bank and local media company Womany showed that 43.3 percent of employees were dissatisfied with gender equality practices in hiring and in the workplace, including in promotion policies and the division of work. According to official statistics, the median monthly income for women in 2019 was on average 87.7 percent of the amount their male counterparts earned. In September Taipei City awarded Taiwan's first gender-equality certifications to 12 enterprises that met the stated standards on LGBTQI+ rights, work-life balance, women's empowerment, and wage equality.

The law requires 3 percent of the workforce in the public sector and 1 percent of the workforce in the private sector to be persons with disabilities. In 2020, 3.7 percent of the public-sector workforce consisted of persons with disabilities; the private sector continued to fall short of the target. Companies with more than 67 employees failing to meet the target are potentially liable for small fines.

## **e. Acceptable Conditions of Work**

**Wage and Hour Laws:** The Ministry of Labor's Basic Wage Committee sets a minimum wage that is regularly adjusted. The minimum wage law does not cover workers in certain categories, such as management employees, medical doctors and other healthcare workers, gardeners, bodyguards, self-employed lawyers, civil servants, contractors for local authorities, and domestic workers. The minimum wage is above the Ministry of Health and Welfare's poverty level, although foreign fishermen on vessels operating outside Taiwan's territorial seas earned significantly below the national minimum wage. Foreign domestic workers are required to be paid a minimum monthly salary of 17,000 New Taiwan dollars (\$5,700); NGOs reported that due to the absence of regulations on their working hours, in practice their remuneration routinely fell well below the national minimum wage. The Labor Incident Act places the burden of proof on employers, not workers, in wage and hour disputes.

In 2020, reportedly due to COVID-19-related economic pressures, the Ministry of Labor reported that the number of workers involved in labor dispute cases,

particularly in wage and improper dismissal cases, increased by 41.3 percent.

Regular working hours are eight hours per day and 40 hours per week, with overtime limited to 54 hours per month. The law requires a mandatory rest interval for shift work of eight hours or longer in certain sectors and limits the number of working days to 12 days in a two-week period. Employees in “authorized special categories” approved by the Ministry of Labor are exempt from regular working hours stipulated in the law. These include security guards, flight attendants, insurance salespersons, real estate agents, journalists, public transport drivers, domestic workers, and caregivers.

To allow foreign caregivers and household workers to attend religious services on a certain day of the week, a publicly funded “respite care service” provides substitutes on a per-day basis.

**Occupational Safety and Health:** The law provides for occupational safety and health standards that are appropriate for the main industries in the economy. The law makes enterprise and dispatching agencies responsible for occupational injuries to temporary workers. Workers can remove themselves from a situation that endangers their health and safety and report to their supervisor without jeopardizing their employment. Employers, however, can terminate the employment contract if they can prove the worker abused the right to suspend work and the competent authority has affirmed the employer was in compliance.

The Ministry of Labor is responsible for enforcing wage and hour laws as well as occupational safety and health standards in conjunction with the labor agencies of local authorities. The ministry effectively enforced the minimum wage, overtime, and occupational safety and health laws. Penalties were commensurate with similar crimes such as fraud or negligence. Employers are subject to civil but not criminal charges when their employees are involved in fatal accidents due to unsafe working conditions.

Authorities recruited an additional 177 labor inspectors in 2020, bringing the number of inspectors to a total of 1,033, just short of the ILO’s standard for industrial market economies.

Inspectors have the authority to make unannounced inspections. Authorities can

fine employers and revoke their hiring privileges for violations of the law, and the law mandates publicizing the names of offending companies. Employers found to be in violation of labor laws during an inspection are not eligible for certain tax reductions or grants.

Of the 33,092 inspections conducted in 2020, 19.2 percent identified violations, primarily related to regulations on regular working hours and overtime work, concentrated in sectors including wholesale and retail, logistics and transportation, accommodation, and food services. Six percent of inspections identified workplace safety violations. The freight and passenger transportation industries saw higher than average accident rates among drivers working overtime.

More than 700,000 foreign workers were employed, primarily from Indonesia, Vietnam, the Philippines, and Thailand; most were recruited through a labor broker. The Ministry of Labor is required to inspect and oversee the brokerage companies to ensure compliance with the law. The ministry also operates a Foreign Worker Direct Hire Service Center and an online platform to allow employers to hire foreign workers without using a broker. Foreign workers may change employers in cases of exploitation or abuse.

The Ministry of Labor maintained a 24-hour toll-free “1955” hotline service in six languages (Mandarin, English, Indonesian, Thai, Tagalog, and Vietnamese) where foreign workers can obtain free legal advice, request urgent relocation and protection, report abuse by employers, file complaints about delayed salary payments, and make other inquiries. All reported cases are registered in a centralized database for law enforcement to track and intervene if necessary. Among the 209,641 calls in 2020, the hotline helped 2,985 foreign workers transfer to a new employer and 4,227 to reclaim a total of 116 million New Taiwan dollars (\$3.87 million) in salary payments.

Foreign workers’ associations maintained that despite the existence of the hotline and authorities’ effective response record, foreign workers were often reluctant to report employer abuses for fear the employer would terminate their contract, subjecting them to possible deportation and leaving them unable to pay off debts to recruiters.



Foreign workers generally faced exploitation and incurred significant debt burdens during the recruitment process due to excessive brokerage fees, guarantee deposits, and higher charges for flights and accommodations. Brokerage agencies often required workers to take out loans for “training” and other fees at local branches of Taiwan banks in their home countries at high interest rates, leaving them vulnerable to debt bondage. NGOs suggested authorities should seek further international cooperation with labor-sending countries, particularly on oversight of transnational labor brokers.

In several instances during the COVID-19 pandemic, foreign workers in factories were prohibited from leaving their dormitories except to travel to and from work; such restrictions did not apply to local employees or the general population.

Foreign fishermen were commonly subjected to mistreatment and poor working conditions. Domestic labor laws only apply to fishermen working on vessels operating within Taiwan’s territorial waters. Fishermen working on Taiwan-flagged vessels operating beyond Taiwan’s territorial waters (the distant-waters fishing fleet) were not afforded the same labor rights, wages, insurance, and pensions as those recruited to work within Taiwan’s territorial waters. For example regulations only require a minimum monthly wage for foreign fishermen in the distant water fleet significantly below the domestic minimum wage. NGOs reported that foreign fishing crews in the distant-waters fishing fleet generally received wages below the required minimum because of dubious deductions for administrative fees and deposits. Several NGOs, including Greenpeace and the Taiwan International Workers Association, advocated for the abolition of this separate employment system, in which an estimated 20,000 migrant workers were employed. Most of these fishermen were recruited from Indonesia and the Philippines.

The Fisheries Agency has officers in American Samoa, Mauritius, Fiji, Palau, South Africa, and the Marshall Islands and inspectors in some domestic ports to monitor and inspect docked Taiwan-flagged long-haul fishing vessels. These officials used a multilingual questionnaire to interview foreign fishermen and examine labor conditions on board. The Fisheries Agency acknowledged the need for more inspectors; they conducted labor inspections of only approximately 400 of the more than 1,100 vessels in the distant waters fishing fleet.

**Informal Sector:** Authorities estimated that more than 53,000 migrant workers had lost touch with their legal employers and likely remained informally employed elsewhere in Taiwan. Studies suggested that employment of such undocumented migrant workers were concentrated in the domestic work and manufacturing sectors. NGOs reported that some migrant workers legally employed as domestic workers were in fact informally employed outside the home, predominantly in small, family-owned businesses in the food and beverage and retail sectors, where they did not enjoy applicable labor protections.